

REMARKS/ARGUMENTS

This paper is responsive to the Office Action mailed May 18, 2006 in the above-captioned application. In response, claims 1-6, 8, 10, 11, 13-16, 18, 20-21, 23-25, and 27 have been amended. No new matter has been added.

Applicants thank the Examiner and Primary Examiner for the telephone interview on August 29, 2006 and appreciate the comments provided during this interview.

During the interview, the Examiner and Primary Examiner requested that Applicants provide information concerning support in the specification for amendments made to the claims. Therefore, Applicants provide the following information in response to the Examiner's request:

Claims addressing calculation of the filter criterion based upon electronically stored claims are supported, for example, in the specification at page 9, lines 1-17.

Claims addressing the compilation of a data set are supported, for example, in the specification at page 7, line 4.

Claims addressing the correspondence of the intervention flag to a member attribute amenable to intervention are supported, for example, in the specification at page 24, lines 21-26.

Claims addressing identification of a medical episode from a data set contributing to the selected member's identification as high-cost are supported, for example, in the specification at page 26, beginning at line 8.

Rejection under 35 U.S.C. § 103

Claims 1-11, 13, 16-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lash (US 2001/0020229A1) in view of Sexton et al. U.S. Patent No. 5,752,236.

However, the combination of Lash and Sexton fails to teach or suggest the method recited in amended claims 1, 16, 21, and 27, including the step of compiling a data set and all associated stored claim data associated with one or more selected members identified as having

certain future predicted healthcare utilizations and analyzing the data set associated with the member or plurality of members to identify intervention flags, medical episodes, or both.

This is in contrast to Lash, where medical claims information is used to generate a predictive model, and then “once the model or probability equation has been formed, all of the patients in a particular sub-population have their records scored in step 67, i.e., they are given a score based on the individual values for their predictive variables. The higher the score, the more likely they are to be high-use patients.” Lash, paragraph 0039. According to Lash, all patients are scored to determine whether they are high-use patents. Subsequent to the determination that a patient is high use, Lash does not disclose or suggest “compiling a data set” from a plurality of electronically stored claims records associated with the selected member(s), as recited in the independent claims. Furthermore, Lash does not teach or suggest any analysis of the data set to identify intervention flags, or to identify a medical episode as specifically recited in amended claims 1, 16, 21, and 27. Even assuming *arguendo* that Lash is properly construed to teach intervention flags or medical episodes, Lash does not teach or suggest identifying them in a data set that is generated after the high-use member has been identified.

Further, Lash identifies patients as being “high-use” patients, and not as the as claimed “high-cost” members. Sexton fails to remedy the deficiencies of Lash because any reference to “cost” in Sexton is in the context of life insurance costs for an insured instead of an insurer, and there is no reference to insured members being “high-cost” customers. Accordingly, Sexton does not teach or suggest that a member is a “high-cost” member for any type of insurer.

In addition, the Examiner indicates that “Sexton teaches a method further including identify [sic] the member as high-cost (Sexton; column 18, lines 60-64).” Office Action page 4, 7. However, Sexton states at lines 60-64: “In general operation, an insurance company will already have life insurance base product data which is available to its agents either in chart or electronic formats. To this would be added information from prospective customers relating to the insured members' gender, age, risk and the like, and the desired allocations of at least premium obligations, cash values, if present, and death benefits between two or more policy contracts.” Sexton does not teach or suggest anywhere that a customer is identified as “high-cost.”

The combination of Lash and Sexton is also improper because the Examiner has failed to identify any suggestion or motivation within the applied references to make the asserted combination. The disclosed method and apparatus for determining high service utilization patients is intended to predict the “likelihood that a patient will become or remain a high user of medical services.” Lash, paragraph 0021. Sexton, on the other hand, discloses a life insurance method and system intended to generate two life insurance contracts for an individual. Sexton, col. 4, lines 17-29. One skilled in the art would not look to Sexton to change the method for determining high service utilization patients to identify members as “high-cost” as the concept is not taught or suggested in Sexton. Therefore, one of skill in the art would not be motivated to combine the references as asserted by the Examiner.

For these reasons, amended claims 1, 16, 21 and 27 are believed to be patentable over the applied references, and withdrawal of the § 103 rejection of these claims is respectfully requested.

Claims 2-11, 13, 17-20, 22-26, and 28-31 depend from amended claims 1, 16, 21, and 27 and are also believed to be patentable over the applied combination of references for at least those reasons set forth above with respect to amended claims 1, 16, 21, and 27.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lash (2001/0020229A1) in view of Sexton, et al. U.S. Patent No. 5,752,236, as applied to claim 1 and further in view of Lutgen et al. (US 2003/0167189A1).

However, Lutgen fails to remedy the deficiencies of Lash or Sexton because Lutgen does not teach or suggest “compiling a data set” from a plurality of electronically stored claims records associated with the selected member(s) after selection has taken place or analysis of the data set to identify intervention flags and medical episodes as recited in amended claim 1, from which claim 12 depends. Moreover, the Examiner has not provided any evidence of motivation within the applied references to make the asserted combination. Consequently, claim 12 is believed to be patentable over the applied references, and withdrawal of the § 103 rejection of this claim is respectfully requested.

Claims 14-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lash (US 2001/0020229A1) in view of Sexton, et al. U.S. Patent No. 5,752,236, as applied to claim 1, and further in view of Lockwood et al. U.S. Patent No. 5,845,254.

However, Lockwood fails to remedy the deficiencies of Lash or Sexton because Lockwood does not teach or suggest "compiling a data set" from a plurality of electronically stored claims records associated with the selected member(s) after selection has taken place or analysis of the data set to identify intervention flags and medical episodes as recited in amended claim 1, from which claims 14-15 depend. Moreover, the Examiner has not provided any evidence of motivation within the applied references to make the asserted combination. Consequently, claims 14-15 are believed to be patentable over the applied references, and withdrawal of the § 103 rejection of these claims is respectfully requested.

This application now stands in allowable form, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

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